

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION**

CASE NO: 5:21-cv-00173-D

TRACIE BEARD,
individually and on behalf of all
others similarly situated,

CLASS ACTION

Plaintiff,

JURY TRIAL DEMANDED

v.

JOHN HIESTER CHEVROLET, LLC,

Defendant.

/

**DECLARATION OF IGNACIO J. HIRALDO IN SUPPORT OF
PLAINTIFF'S MOTION TO DEFER RULING ON
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT**

Ignacio J. Hidaldo declares as follows:

1. I am one of the attorneys representing Plaintiff Tracie Beard. I submit this declaration in support of Plaintiff's Motion Defer Ruling on Defendant's Motion for Summary Judgment.

2. Except as otherwise noted, I have personal knowledge of the facts set forth in this declaration, and could testify competently to them if called upon to do so.

3. In its Motion for Summary Judgment, [DEs 32; 33], Defendant asserts that Plaintiff provided the "express written consent" Defendant required to place the telemarketing prerecorded message calls at issue. Defendant supports its arguments with numerous declarations from Defendant and non-parties, none of which have been deposed by Plaintiff in this matter.

4. The reason these entities have not been deposed yet by Plaintiff is Defendant's refusal to produce class discovery, which required Plaintiff to file a motion to compel with this

Court. As described in Plaintiff's Motion to Defer, even after being ordered to produce class discovery, Defendant refuses to do so. Deposing these entities prior to obtaining this discovery would result in Plaintiff having to conduct multiple rounds of depositions and waste judicial and party resources.

5. Without the benefit of the depositions of Defendant and the non-parties, Plaintiff will be unable to gather evidence and facts necessary to oppose Defendant's motion.

6. The discovery outlined above will provide Plaintiff with facts essential to oppose Defendant's motion, including whether Plaintiff was provided clear and conspicuous disclosures as required under the TCPA.

7. Absent this discovery, Plaintiff will be prejudiced and will be unable to adequately respond to Defendant's Motion for Summary Judgment.

* * *

I declare under penalty of perjury of the laws of Florida and the United States that the foregoing is true and correct, and that this declaration was executed in Miami, Florida, on April 4, 2022.

/s/ Ignacio J. Hiraldo
Ignacio J. Hiraldo